

ARIZONA RACING COMMISSION

613TH REGULAR MEETING

WEDNESDAY, APRIL 11, 2012

MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, April 11, 2012, beginning at 10:00 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

Present:	Chair	A. Melvin McDonald
	Vice-Chair	Burton S. Kruglick
	Commissioner	Jay McClintock
	Commissioner	Erin Owens
	Commissioner	Rory S. Goreé

Also present: William J. Walsh, Director, Mary D. Williams, Assistant Attorney General, and Cassie Goodwin, Commission Secretary.

A. Call to Order

Chair McDonald called the 613th Regular Meeting of the Arizona Racing Commission to order at 10:02 a.m. The following matters were discussed, considered and decided at the meeting:

Approval of the Minutes:

1. Minutes of the 612th Regular Meeting held on Wednesday, March 14, 2012 – **Commissioner McClintock** moved to approve the minutes. **Commissioner Owens** seconded the motion. Motion Carried.

B. New Business

1. Yavapai County Fair Association Purchase/New Ownership

Director Walsh stated that in bankruptcy court last week, the Yavapai Downs racetrack was purchased by Gary Miller of Scottsdale, who until recently served as president of the Arizona HBPA. The sale of Yavapai Downs required US Department of Agriculture approval. Mr. Miller's bid was rejected. The USDA is currently in negotiations with the second bidder. **Director Walsh** invited Mr. Miller to comment. **Gary Miller** addressed the Commission advising he is still in negotiations with the USDA and, under the advice of his attorney, cannot say too much right now. He did advise there is a lot of work to be done at Yavapai Downs and he hopes the USDA will accept his offer which will allow him to submit his application and get racing started again at Yavapai Downs. **Director Walsh** indicated that Mr. Miller was given an application package and, in the event of the USDA accepting an offer, the Department is ready to move forward with the necessary background investigation to process the application as expeditiously as possible as they all want Yavapai Downs open as soon as possible.

2. Yavapai County Fair Association Racing Permit Renewal Application

Director Walsh noted that Yavapai County Fair Association filed a permit application in 2009 to race at Yavapai Downs. The application was never completed despite repeated requests by the Arizona Department of Racing for information. Following its shut down last year and in subsequent bankruptcy filing, the trustee for the court objected to the Commission acting on the application. The Department's recommendation is that the application be closed. **Chair McDonald** requested clarification on the difference between "closure" and "denial" of the application. **Assistant Attorney General Mary Williams** explained that closure is warranted as the application was not complete so the Commission doesn't have enough information to substantively review the application. **Commissioner McClintock** moved to close the Yavapai County Fair Association dba Yavapai Downs at Prescott Valley racing permit renewal application due to its failure to file a substantively complete application package within the statutory timeframes set forth in law. **Commissioner Owens** seconded the motion. Motion Carried.

3. Coconino County Fair – Request to Amend FY 2012 Race Dates

a. Delete June 30, July 1, 2, 3, 4, and 5, 2011 at Flagstaff

b. Add April 28, 29, May 5 and 6, 2012 at Turf Paradise

Director Walsh stated that on May 11, 2011 the Racing Commission approved a three-year county fair racing permit for Coconino County Racing (Flagstaff, AZ). Coconino chose not to race those dates and has recently entered into an agreement with Turf Paradise to race the FY 2012 race dates at Turf Paradise on April 28, 29, and May 5, 6, 2012. Coconino received Board of Supervisors' approval for this change in schedule on April 3, 2012. The Department recommends that the Commission approve Coconino's request

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to amend their FY 2012 race dates. **Commissioner Owens** moved to approve the Coconino County Fair's request to delete June 30, July 1, 2, 3, 4, and 5, 2011 at Flagstaff and add April 28, 29, May 5, 6, 2012, at Turf Paradise. **Commissioner Kruglick** seconded the motion. Motion Carried.

4. Animal Adoption Grant Proposals

a. Horses

i. Canter Arizona

ii. Equine Encore Foundation

Director Walsh stated the Arizona Racing Commission provides annual financial assistance to organizations that promote the adoption of retired racing greyhounds and horses. Unfortunately, we will not be awarding grants from the Greyhound Adoption Fund this year. Grant monies for this fund come from 100% of the license fees paid by racing kennels, breeding farms, and other operations. This past year was in the middle of the licensing cycle; therefore, very few licenses were issued. There is only a little over \$300 in the Greyhound Adoption Fund. He expressed hope that the fund will grow by this time next year and that the Commission can again issue grants to the greyhound adoption agencies. Applications for the Retired Racehorse Adoption grant were received from two organizations this year. Dr. Scot Waterman, the Department's Animal Medical & Welfare Advisor, reviewed both applications and found them to be complete. The Retired Racehorse Adoption Grant in the amount of \$1,795 is available for distribution. The Fund receives 5% of all horseracing fines. Applicants are: 1. Equine Encore Foundation, Tucson, Arizona – Patti Shirley, Director and 2. Canter Arizona, Prescott, Arizona – Dennis Miller, Executive Director. **Dr. Scot Waterman, Animal & Medical Welfare Advisor**, stated he has reviewed two grant applications. Both applications provided all of the documentation as requested; both are seeking funds for what he believes to be necessary operations in terms of placing retired racehorses and both are worthy of receiving money from this account. Equine Encore is pretty well known to the Department and past recipient. Canter Arizona is probably new to the Department. It is an affiliate of a group that is based in the mid-Atlantic or northeast part of the country. It has an excellent track record in that part of the country for placing retired racehorses and he is pleased to see it make a mark in Arizona. His recommendation would be to fund both organizations. **Commissioner Kruglick** asked if the Department would be able to get publicity out to the public about adopting retired racehorse and greyhounds. **Director Walsh** advised he will see what he can do. **Chair McDonald** asked if there was a specific amount that needed to be awarded to the applicants. **Director Walsh** indicated there is \$1,795 and the Commission should vote to divide that in any way it deemed appropriate. **Commissioner McClintock** moved to approve the Canter Arizona application and grant it 50% of the available funds. **Commissioner Owens** seconded the motion. Motion Carried. **Commissioner McClintock** moved to approve the Equine Encore Foundation application and grant it 50% of the available funds. **Commissioner Owens** seconded the motion. Motion Carried.

5. Changes to the May 09, 2012 and June 13, 2012 Commission Meeting Dates

Director Walsh stated the Commission had previously settled on monthly meetings through June of this year and had scheduled no meeting for the months of July and August. Because of some scheduling conflicts along with the possibility of dealing with a permit application for Yavapai Downs, it may be necessary to alter the current schedule. His recommendation is to cancel the May 9, 2012 meeting, postpone the June 13, 2012 meeting or have a meeting when necessary to consider the Yavapai Downs application associated with the Department's funding. He would also like to have a meeting in June to address license fees which is currently set to expire on June 30th. The Department doesn't know whether the rule making exemption will be renewed or not in law. The Department believes that it can lower some of them in a fashion that will please all aspects of the industry. Also, Turf Paradise has indicated there is an OTB they would like to get approved but were unable to get the paperwork together in time for this meeting due to the local municipality would not be meeting until after this Commission meeting so there may be a need for a quick phone meeting between now and the end of the month so Turf can move into that OTB by Derby weekend. He would recommend that the Commission cancel the May 9, 2012 meeting and hold the June meeting but move it to June 20th. That would give time to get the rules in place and, if Yavapai came with an application to consider in June that would be a good date. If the application came earlier then there would need to be a special meeting scheduled. **Chair McDonald** indicated he also had a conflict with the May meeting date. **Commissioner McDonald** moved to move the May 9, 2012 meeting to June and push the June 13 meeting date tentatively to June 20, 2012. If a meeting was necessary for the OTB and/or Yavapai Downs a special meeting would be scheduled. **Commissioner Owens** seconded the motion. Motion Carried.

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C. Information Reports

1. Department Monthly Update

a. Status Update on A.A.C. R19-2-205 (Regulatory Wagering Assessment of Pari-Mutuel Pools):

Director Walsh stated the income to the Department from the RWA and other sources of revenue are on schedule. Should there be any additional race days scheduled in this fiscal year, the Department is confident that the funding will be there to cover the additional costs.

b. Progress Report on Department's Plan to Update the Administrative Rules regulating Horse and Dog Racing: **Director Walsh** stated the Department plans to have a major package in place as described during last month's meeting. He and Scot Waterman have been working with Jeanne Hann, an expert in the field, to fine tune the proposals including the Animal Welfare rules. The latter will bring the Department into near compliance with the ARCI Model Rules in that area. Before the moratorium went into effect, the Auditor General recommended that the Department's rules be changed to follow the ARCI Model Rules. Events outside of Arizona have put a focus on the issue around the country and the Department feels it is absolutely necessary to get this rule change through. The goal, once the Commission has reviewed and approved them, is to have the rules in place by the end of this calendar year, hopefully in time for the beginning of Turf Paradise's race meet. **Commissioner Owen** asked if the new rules would allow continual updates as the ARCI continually updates its rules on a yearly basis or if the Department would need to do yearly updates to the rules. **Director Walsh** advised the new rules would bring the Department in line with the current ARCI rules and yearly updates would be necessary to stay in sync with any ARCI rules changes.

c. National Animal Medication Issues / *New York Times* Article Dated March 25, 2012: **Director Walsh** stated the *New York Times* recently published the first in a series of articles concerning injuries to horses and the use of medication in the racing industry. While Arizona was not directly mentioned in the article, there was a chart which listed the number of "incidents" at tracks throughout the country, including those in this state. The Department has made an inquiry requesting the backup information for that chart. When and if that information is received, it will be passed on to the Commission. In the interim, Turf Paradise General Manager Vincent Francia wrote the Department and Commission with the request that the state go to a "zero tolerance" medication policy. While the term may cause some consternation, it could be a starting off point for discussion and potential action. **Vincent Francia, General Manager, Turf Paradise** addressed the Commission. He stated that reading the *New York Times* article caused him to take a close look at Turf Paradise. The "zero tolerance" that he suggested specifically applies to drugs that are prohibited and should not be in the horse's system not the permissible drugs that have a tolerance level. He doesn't believe drug abuse is widespread or prevalent in the sport but it is present and racing hasn't done all that it can do to stop it. Hopefully the *New York Times* article will be a wake-up call.

2. Introduction and Remarks by New Commissioner Rory Goreé: **Director Walsh** introduced the newly appointed Commission member, **Commissioner Goreé**, advising that Commissioner Goreé was honorably discharged from the United States Navy in 1993. After 10 years of service he discovered greyhounds. Since then Commissioner Goreé has been involved in several capacities and positions working with the Greyhound Racing Industry and greyhound adoption and has been invited to speak at numerous greyhound adoption events as well as university, veterinarian and racing symposiums across the country and at both the American Greyhound Track Operators Association and the Association of Racing Commissioners conferences. Commissioner Goreé served on the Arizona Department of Racing's committee to review and recommend greyhound racing welfare related rules. When not involved with greyhounds Commissioner Goreé works as an Information Security Analyst specializing in SAP. **Commissioner Goreé** thanked Director Walsh and stated he is looking forward to working with the Commission.

3. Permittee Reports: **Chair McDonald** asked Permittees to provide a written report to the Commission of any issues of concern. This way there is a record, the Commissioners may ask questions and be better informed of their concerns, and this would help make this portion of the meeting more efficient and effective. **Commissioner Owens** indicated she believes the Permittees are not just presenting issues of concern but also bringing others up-to-date of what is taking place in their venues. She agrees that, if there is an issue that

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needs to be addressed, a written report would better help the Commission to assist the Permittee. **Chair McDonald** stated he would like to see a procedure so that Permittees don't feel pressured to speak if they don't have anything to say and this item wouldn't necessarily have to be on the Agenda. **Assistant Attorney General Williams** advised the Commission wouldn't be able to take a vote on this request today, but the Department can explore the options and put it on a future Agenda. **Director Walsh** stated this section was placed on the Agenda as a suggestion several years ago and there wasn't a vote. Item number 4 below was also added by Mr. Powell as a way to share information. He is fine either way. **Chair McDonald** said that by getting it in writing the Commission is allowed to discuss the issue in depth and allows the Commission to focus on issues that the Permittees really want to get addressed. **Commissioner Kruglick** doesn't see a problem with requesting a letter but he believes they should be allowed to address the Commission, too, since they bring information to the Commission of events that maybe wouldn't be known. **Chair McDonald** said he wasn't taking away the Permittee's opportunity to speak at the meetings; he just wants something in writing to allow the Commission to be more effective and efficient in addressing their concerns. The idea isn't to stifle thought, rather to broaden it so people don't feel that they have an obligation to get up and talk simply because they're on the Agenda. **Commissioner Kruglick** suggested having the letter early enough to allow for dissemination to the Commissioners with the meeting documents. **Chair McDonald** suggested the letter be received by the Department by the first of the month. **Director Walsh** stated if the Department received a letter indicating issues, this could be placed on the Agenda and opens it for further discussion at the meeting. As it is right now, the Commission cannot respond to these comments. If a Permittee wanted to say something there is the Call to the Public portion of the meeting where they can address the Commission. Quite often the Permittees bring information that may not otherwise be known, especially from the outlying tracks. It would also help to have something in writing so the issue wouldn't have to be pushed back a month to be on the next meeting Agenda and the Commission could deal with it right away.

a. **American Greyhound Racing: Dan Luciano, President** – Mr. Lucian responded to Chair McDonald's comments saying that there was a time when people would say there was nothing to report. He believes Mr. Powell wanted to know what was going on in their world so asked that they speak. He then reported that it was a good March; our numbers are holding up pretty well.

b. **County Fairs:** No report.

c. **Rillito: Patti Shirley, Vice President**, – Ms. Shirley responded to Chair McDonald's comments, saying that if a written report is submitted to the Commission, no one will show-up. She thinks it's important to come to these meetings and it's important that everybody out there, and not just the Commissioners, to know what's going on. So her opinion is that she would hate to see the Permittees' reports stricken from the Agenda as it would take away a lot of the interaction and interplay and the Commission actually knowing what's going on with them. Then she reported that the Rillito meet is over. Unfortunately the new Director wasn't able to be there the whole time, but he did get to see how Rillito is special. People still come, it's a good family environment, and it's a great racing event. The only bad day they experienced was March 18th and that was due to the horrible weather. They thought long and hard about cancelling but the jockeys wanted to do it so they ran. They had a very successful season. Basically they broke even, which is what they want to do since they're a non-profit organization. They are still working with the County to recover the \$18,000 spent on security during the off-season. Yavapai being gone is a problem for them and she foresees it as a bigger problem in the future.

d. **Tucson Greyhound Park: Tom Taylor, CEO/General Manager** – Mr. Taylor said he welcomes the opportunity to stand before the Commission each month and provide a verbal report. He feels it is important for the Commission to be able to ask them questions; to dispel any rumors or clarify any issues. It looks like kennel cough is coming back; it's that time of year. There is a kennel that has it and they're doing everything they can to keep it contained and stop the spread. It's like a cold; you can't prevent them from getting it, just treat the symptoms. The veterinarian has all of the medication in stock in case they have an epidemic they're be able to treat every dog. So hopefully they have a calm year. It's like anything else sometimes it's worse than others. **Commissioner Owens** asked how long the kennel cough keeps a dog down. **Mr. Taylor** advised it depends on the dog. You normally don't run them as long as they have it. It could be a week or it could be three weeks or a month. **Commissioner Goreé** asked if there have been new arrivals that may have brought it in. **Mr. Taylor** said new dogs have been brought in from Florida

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which were quarantined 10 days as they had the cough when they arrived, but it was already present before those dogs got there so it wasn't like those dogs brought it in. The rumor he's hearing is that it's pretty prevalent at Gulf and they're just next in line. They're very short on dogs now because of there were injuries in the month of March (muscle pulls, things like that). They had ten races on Monday and, it had been so long since they'd had only 10 races, they didn't have a wagering format so they had to come up with the 10 race card and get it approved by Pam Niederkorn in order to run Monday. Hopefully they don't have any more ten race cards but it could happen with the kennel cough. They could even get down lower than that. **Chair McDonald** said this is precisely why he would like to have a written report so events like this can be put in writing, discussed and if other people wanted to know what's going on in other parts of the industry that letter could be emailed, people could be put on an email list, so there could be dialog and people would know what's going on at the particular facilities around the state.

e. Turf Paradise: Vincent Francia, General Manager – Mr. Francia said he believes the written report idea is an excellent one. It would assist him in his presentation when he is dealing with spreadsheets and reports. He's providing wagering and financial figures and it's easier to understand when the information is available as he speaks. If the Commission had the reports beforehand it would be easier to follow along and ask questions. Because of the three days of cancellations, they did take a hit; the on-track handle was down about five-percent; the OTB held steady, up two-percent; the overall total in-state is dead-even. The out-of-state is still the biggest problem. Overall they are down 16%. Attendance, by the end of the meet, is going to be up five-percent. This is compared to last year where they were up six-percent, so they're attracting new people to the racetrack. The race day total, the important thing here, is average purse per day, comparing this year to last, is \$76,400 (last year was \$69,705) so they're paying out more money. By the end of the race season which is the day after the Kentucky Derby, Turf will have probably paid out about \$11 million in purses to the horsemen as compared to last year which was under \$10 million. Where they have struggled and this is important, is the number of starters. Last year, for example, they had 9,966 through this time period they've had 9,346 which is about a 600 horse swing. That affects them as they cannot put out an eight horse field. They are averaging 7.89 starters per race. This affects wagering.

Chair McDonald proposed that by the next meeting those Permittees, who choose to do it, submit a written report. It would have been helpful to have seen what Mr. Francia was referring to during his report.

4. Optional Industry Stakeholder Association

a. Arizona Greyhound Association – No report given.

b. Arizona Quarter Racing Association: Loretta Brasher, Executive Director – The Quarter Horses just finished a great meet at Rillito and are racing at Turf Paradise. They have a \$60,000 plus Derby coming up and \$80,000 plus Futurity coming up. After that, it looks pretty bleak. She was really sorry and worked very hard with the HBPA and other groups to get Yavapai going because it means everything to the Quarter Horses. The racing opportunities that they have are shrinking every year and it forces the horses to go out of state. It's difficult to get them back up in the fall once they're gone. They're looking forward to a great mixed meet with Turf Paradise as long as they will invite them back for the fall. She enjoys providing her report in person.

c. Arizona Thoroughbred Breeders Association: Yvonne Kunz, Executive Director – They are in the process of preparing for their Annual Arizona Thoroughbred Breeders Festival. On Friday, April 27, 2012 they have their Awards Banquet and on Saturday, the 28th, is the Festival of a full day of racing just for Arizona bred. It's a great way to showcase Arizona and to let everyone know that racing in Arizona is alive and well. She extended invitations to all the Commission members to attend the festivities.

d. Horsemen's Benevolent & Protective Association – Nothing to report.

e. Jockey's Guild – No report given.

D. Director Report – Nothing further to report.

E. Commission Reports:

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1. Nothing to report.
2. **Future Agenda Items:** None

Commission Kruglick invited the Boxing and Mixed Martial Arts Director, Dennis O'Connell to the next meeting. **Director Walsh** will invite him.

The next regular Commission meeting will be held **Wednesday, June 20, 2012, at 10:00 a.m.** in Building Conference Room Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

Call to the Public:

Patti Shirley – Thanked the Commission for the grant money to the Equine Encore Foundation. Announced she is selling raffle tickets for a 2012 Nissan Leaf. The deadline for purchasing tickets is April 20, 2012 and all proceeds to benefit the Equine Encore Foundation.

Adjournment:

Chair McDonald called for a Motion to Adjourn. **Commissioner McClintock** moved to adjourn the meeting. **Commissioner Kruglick** seconded the motion. Motion Carried.

This public meeting adjourned at 11:04 a.m.

Dated this 22nd day of June, 2012

Arizona Racing Commission

By 
Cassie Goodwin, Commission Secretary